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4 **UNITED STATES DISTRICT COURT**

5 **DISTRICT OF NEVADA**

6 UNITED STATES OF AMERICA,

)

7 Plaintiff,

)

8 ) 3:13-cr-00012-RCJ-WGC-1

9 vs.

)

10 VERNON MCCULLUM, III,

)

**ORDER**

11 Defendant.

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13 Pursuant to a plea agreement with the United States, Defendant Vernon McCullum, III  
14 pled guilty in this Court to count five of the Superseding Indictment for transportation of a minor  
15 in interstate commerce for prostitution or other illegal sexual activity. Defendant asked the Court  
16 to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 based upon trial counsel's  
17 failure to appeal certain issues. The Court found that the claim was both procedurally defaulted  
18 and without merit. Defendant now asks the Court to issue a certificate of appealability under  
19 § 2253 as to whether trial counsel's failure to at least file an *Anders* brief with the Court of  
20 Appeals is permitted. The Court denies the motion. Even if the Court were to excuse the  
21 procedural default (under *Anders* or otherwise), as the Court noted, the underlying ineffective  
22 assistance claim is plainly without merit. Defendant has made no substantial showing that a  
23 reasonable jurist could find a denial of his constitutional right to effective assistance at trial. *See*  
24 *Slack v. McDaniel*, 529 U.S. 473, 483–84 (2000).

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## CONCLUSION

IT IS HEREBY ORDERED that the Motion for Certificate of Appealability (ECF No. 144) is DENIED.

IT IS SO ORDERED.

Dated this 24th day of March, 2014.

ROBERT C. JONES  
United States District Judge